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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,457	03/17/2000	Mukesh Dalal	020431.0671	4373

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EXAMINER

MCALLISTER, STEVEN B

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/528,457

Applicant(s)

Dalal

Examiner
Steven McAllister

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 10, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7, 10-15, 17-19, 21-23, 26-31, 33-35, 37-39, and 42-63 is/are pending in the application.
- 4a) Of the above, claim(s) 51-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 10-15, 17-19, 21-23, 26-31, 33-35, 37-39, and 42-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-7, 10-15, 17-19, 21-23, 26-31, 33-35, 37-39, and 42-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lupien et al (5,950,177) in view of Thiessen (5,495,412).

Lupien et al show accessing a first optimization problem and first threshold value comprising at least one objective, comprising maximizing first party satisfaction, and one or more constraints comprising for instance stock price (see e.g., Fig. 2); accessing a second optimization problem and second threshold value comprising at least one objective, comprising maximizing second party satisfaction, and one or more constraints comprising for instance stock price (see e.g., Fig. 3); generating a global optimization problem using a computer system wherein the solution has a first objective value and second objective value such that the first and second values are consistent with the first constraint (e.g., stock price), the first threshold (e.g., minimum satisfaction), the second constraints (e.g., stock price) and the second threshold (e.g., minimum satisfaction). Lupien et al do not show an option for dividing the excess satisfaction in one of the

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four claimed methods. Thiessen shows dividing excess satisfaction to create equal satisfaction distribution. It would have been obvious to one of ordinary skill in the art to modify the method of Lupien et al by dividing excess satisfaction in order to assure users of an equitable marketplace.

As to claim 18, Lupien et al show receiving the COP's from the respective parties.

As to claim 19, Lupien et al and Thiessen show constraints relating to global variables.

As to claim 21, Thiessen shows using linear programming to generate the global problem (abstract).

As to claim 22, Lupien et al show generating a global solution wherein the first objective value exceeds the first threshold and the second objective value exceeds the second threshold (e.g., satisfaction exceeds minimum satisfaction threshold of .1)

As to claim 23, Thiessen shows that the global solution is generated as a Pareto-optimal solution (col. 6, line 57).

As to claim 26, Lupien et al in view of Thiessen discloses iteratively accessing additional first and second values threshold values and generating an additional global solutions.

As to claim 31, Thiessen discloses mediating the negotiation substantially simultaneously with the negotiation between the parties.

As to claims 1-3, 5-7, 10, and 15, Lupien et al in view of Thiessen shows the brokerage system for accomplishing the steps of the method of claims 17-19, 21-23, 26, and 31.

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As to claims 33-35, 37-39, 42, and 47, Lupien et al in view of Thiessen inherently discloses software to accomplish the steps of the method of claims 17-19, 21-23, 26, and 31 since it is disclosed that the method is accomplished via a plurality of computers and it is necessary for the computers to use such software to accomplish the method.

As to claims 11, 12, 27, 28, 43 and 44, Lupien et al in view of Thiessen discloses communicating possible alternative solutions to the parties, and receiving and applying filtering information comprising a weighted preferences approach from the parties. Thiessen does not disclose accomplishing these steps after the computation of the global solution. However, it would have been an obvious matter of design choice to modify the method of Thiessen by accomplishing the filtering steps after the global solution had been computed since the applicant does not state that accomplishing the filtering in this manner at this time is for any particular reason or solves a particular problem and it appears that the method would work equally well in either configuration.

As to claims 13, 14, 29, 30, 45, and 46, Thiessen discloses communicating solutions to the parties and receiving selection information. It does not disclose choosing the solution via an auction approach. However, it is notoriously old and well known to use an auction to decide the owner of a particular right (in this case the right to choose the final solution). It would have been obvious to one of ordinary skill in the art to modify the method of Thiessen by auctioning the right to select from the acceptable, optimized solutions in order to efficiently assign that right by providing it to the party that values it most highly.

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3. Claims 1-3, 5-7, 10-15, 17-19, 21-23, 26-31, 33-35, 37-39, and 42-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiessen (5,495,412) in view of Lupien et al (5,950,177).

Thiessen shows accessing a first optimization problem and a threshold value related to a first objective; a second optimization problem and a threshold value related to a second objective; using the computer generating a global solution having a first objective value and a second objective value satisfying the first and second thresholds, respectively, and where the first excess and second excess are divided with and equal distribution criteria. Thiessen does not explicitly show the first constraint related to the first objective, the second constraint related to the second objective, or that the first and second objective values of the global solution are consistent with the first and second constraints. Lupien et al show these elements. It would have been obvious to one of ordinary skill in the art to modify the method of Thiessen by introducing the first and second constraints and having the global solution be consistent with those constraints in order to allow a plurality of variables to be considered and satisfied at one time.

As to claim 18, Thiessen shows receiving the COP's from the respective parties.

As to claim 19, Lupien et al and Thiessen show constraints relating to global variables.

As to claim 21, Thiessen shows using linear programming to generate the global problem (abstract).

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As to claim 22, Lupien et al show generating a global solution wherein the first objective value exceeds the first threshold and the second objective value exceeds the second threshold (e.g., satisfaction exceeds minimum satisfaction threshold of .1)

As to claim 23, Thiessen shows that the global solution is generated as a Pareto-optimal solution (col. 6, line 57).

As to claim 26, Thiessen in view of Lupien et al discloses iteratively accessing additional first and second values threshold values and generating an additional global solutions.

As to claim 31, Thiessen discloses mediating the negotiation substantially simultaneously with the negotiation between the parties.

As to claims 1-3, 5-7, 10, and 15, Thiessen in view of Lupien et al shows the brokerage system for accomplishing the steps of the method of claims 17-19, 21-23, 26, and 31.

As to claims 33-35, 37-39, 42, and 47, Thiessen in view of Lupien et al inherently discloses software to accomplish the steps of the method of claims 17-19, 21-23, 26, and 31 since it is disclosed that the method is accomplished via a plurality of computers and it is necessary for the computers to use such software to accomplish the method.

As to claims 11, 12, 27, 28, 43 and 44, Thiessen in view of Lupien et al discloses communicating possible alternative solutions to the parties, and receiving and applying filtering information comprising a weighted preferences approach from the parties. Thiessen does not disclose accomplishing these steps after the computation of the global solution. However, it would have been an obvious matter of design choice to modify the method of Thiessen by

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accomplishing the filtering steps after the global solution had been computed since the applicant does not state that accomplishing the filtering in this manner at this time is for any particular reason or solves a particular problem and it appears that the method would work equally well in either configuration.

As to claims 13, 14, 29, 30, 45, and 46, Thiessen in view of Lupien et al discloses communicating solutions to the parties and receiving selection information. It does not disclose choosing the solution via an auction approach. However, it is notoriously old and well known to use an auction to decide the owner of a particular right (in this case the right to choose the final solution). It would have been obvious to one of ordinary skill in the art to modify the method of Thiessen by auctioning the right to select from the acceptable, optimized solutions in order to efficiently assign that right by providing it to the party that values it most highly.

As to claim 48, 49, and 50, it is noted that Thiessen in view of Lupien et al show that the global solutions are filtered as described regarding claims 1, 17, and 33, in that they are filtered to produce only the global solutions having equal distribution of satisfaction.

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.


Steven B. McAllister

January 26, 2004